



Memorandum

TO: PLANNING COMMISSION

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: May 1, 2002

Council District: 9

SUBJECT: PDC 01-03-036. PROTEST OF A NEGATIVE DECLARATION FOR A PLANNED DEVELOPMENT REZONING FROM CP COMMERCIAL PEDESTRIAN TO A(PD) PLANNED DEVELOPMENT, AND SUBSEQUENT PERMITS TO ALLOW THE ADDITION OF A CAR WASH AT AN EXISTING GAS STATION ON THE SOUTHEAST CORNER OF SOUTH BASCOM AVENUE AND CAMDEN AVENUE

BACKGROUND

This is a protest of a Negative Declaration (ND) for a Planned Development Rezoning from CP Commercial Pedestrian to A(PD) Planned Development, and subsequent permits to allow the addition of a car wash at an existing gas station on a 0.52 gross acre site located on the southeast corner of South Bascom Avenue and Camden Avenue.

The Draft Negative Declaration was distributed on December 21, 2001 to property owners and occupants within 500 feet of the project site. One letter protesting the adequacy of the Negative Declaration was filed in the Department of Planning, Building and Code Enforcement on January 9, 2002. The attached letter expressed concerns regarding increased noise.

The project was originally scheduled for consideration by the Planning Commission on January 23, 2002. The project was initially deferred to allow time for the preparation of a response to the Negative Declaration protest.

The applicant, under the direction of City Council member John DiQuisto's office, made arrangements to hold a community meeting to discuss the proposed project. The community meeting was initially scheduled for March, but due to scheduling difficulties was deferred to April 18, 2002. The meeting was held at the Camden Community Center (3369 Union Avenue at Camden Avenue). Noticing for the meeting was distributed to occupants and residents within 1000-feet of the project boundary. Approximately 14 neighbors attended the meeting and their major comments are addressed in this memo.

ANALYSIS

The Draft Mitigated Negative Declaration for this project was prepared in conformance with the California Environmental Quality Act (CEQA). Section 15070(b)(1) of the CEQA Guidelines specifies that a Negative Declaration may be prepared where the Initial Study shows that there is no substantial evidence that the project would have a significant effect on the environment. The Initial Study prepared for this project examined the potential for the project to result in significant environmental impacts. Based on the initial study, the Director of Planning, Building & Code Enforcement has concluded that the project would not result in a significant environmental impact and would not require the preparation of an Environmental Impact Report (EIR).

The City of San Jose received one letter of protest from Andrew Broer on the Draft Negative Declaration which is reproduced in sections on the following pages, followed by the City's response to the issue raised in the letter. In addition, a complete copy of the letter is attached..

RESPONSE TO COMMENTS RECEIVED FROM ANDREW BROER, DATED JANUARY 7, 2002

COMMENT 1

I would like to protest the proposed Chevron Car Wash project PDC01-03-036 rezoning effort. I live at 2230 Casa Mia Drive in San José and my house would have a direct line for ambient noise to travel and disrupt my home's relative solitude on weekends.

Bascom Avenue and Camden Avenue are very busy during the weekday rush hours, but this noise is tolerable as I too am headed for work on these days, but the proposed Car Wash would most likely be busiest during the weekend and would be very easily heard inside my already double paned windowed home. I submit that the additional noise of a running automatic car wash would have a very negative effect on my home life due to increased noise. The proposed 8 ft sound wall would not extend high enough to protect my second story home, nor would a taller wall be anything close to aesthetically pleasing for the neighborhood

RESPONSE TO COMMENT 1

The comment above was in reference to mitigation measures included in the project that were noted in the Draft Mitigated Negative Declaration (MND). The following is the text of the mitigation from the Draft MND:

A noise assessment study prepared by Edward L. Pack Associates, Inc. Acoustical Consultants, shows that project generated noise exposures at property lines will be in excess of standards established in the General Plan and Zoning Ordinance. The installation of the manufacturer's "Quietzone" dryer silencing system and the construction of an 8-foot tall acoustically effective noise control barrier along the property line at the car wash exit will reduce project generated noise to a less than significant level.

Based on the acoustical analysis prepared for the proposed project, the car wash would not significantly increase ambient noise because the noise generated by the proposed car wash will be mitigated to meet General Plan noise standards. As mitigated, the noise generated by the proposed car wash will be less than the existing ambient noise generated by traffic on Camden Avenue.

Acoustical criteria for assessing noise impacts for this project were taken from the San José 2020 General Plan, and from the thresholds of significance used in the initial study. The threshold used to determine if there would be a significant effect from project generated noise is 60 dBA DNL measured at the adjacent property line(s). This is the guideline that the General Plan establishes as the maximum exterior-noise quality level for the near term. The threshold for a significant noise impact is a 3-dBA DNL increase above existing noise levels on the subject site.

The acoustical analysis states the existing ambient noise levels on the project site range between 61.9 and 66.2 dBA during the planned hours of operation from 8:00 a.m. to 9:00 p.m. The acoustical analysis concluded that future mitigated noise levels at the most impacted adjacent property line (Royal Pools) would be 60 dBA which conforms to the GP standard.

The Project is in conformance with the General Plan noise standards at all adjacent property lines. The protestant's closest property line is located approximately 345-feet from the proposed car wash and is across Camden Avenue. Therefore, as defined by the General Plan noise standard, there will be no impact to the protestant's property. Furthermore, because the existing noise generated from traffic on Camden Avenue is greater than the noise generated from the proposed car wash there will be no noticeable change in the ambient noise levels.

RESPONSE TO COMMENTS RECEIVED FROM THE COMMUNITY MEETING

The following is staff's response to the concerns raised during the community meeting. Although these comments were not included with the formal protest, they are included with this staff report.

1. **Comment:** The car wash would have a negative impact on the neighborhood due to increased noise. (Andrew Broer, and neighbors).

Staff Response: The General Plan Noise Standard for land use compatibility states that the short-range exterior noise quality level for single-family residential land uses should not exceed 60dB Day-Night Level (DNL). This applies at the property line of residential areas impacted by transportation related noise sources. For off-site noise sources generated by commercial/industrial land uses an exterior limit of 55 dB DNL at residential property lines is specified.

The City reviews projected noise impacts based on Day-Night Level (DNL) measurements. DNL is a weighted average of sound levels over a 24-hour period. Based on the City's evaluation of a noise analysis prepared by Edward L. Pack Associates, Inc, Acoustical Consultants, there would be no noise impact to the residential neighborhood located across Camden Avenue. The protestant's property line is approximately 345-feet from the proposed car wash as indicated on the attached location map. With the mitigation incorporated into the

project and agreed to by the applicant the noise levels at the project property lines will be 60dB DNL or less. The proposed project will generate less noise than the existing ambient noise generated by the traffic on Camden Avenue, which ranges from 63 dB DNL to 70 dB DNL.

2. **Comment:** Analysis of noise impacts should take into consideration peak noise or single noise events.

Staff Response: Peak noise or single noise events (Lmax) are taken into consideration and averaged over one hour to arrive at a continuous equivalent-energy level (Leq) which is used to develop the Day-Night Level (DNL). However, the City does not consider peak noise or single noise events by themselves as an adequate description of a given noise environment.

To address this concern, the applicant commissioned Edward L. Pack Associates, Inc., Acoustical Consultants to perform additional analysis to determine the peak noise levels at the protestant's property line. The project mitigation measures identified in the noise report and required by the City (dryer silencing system) coupled with additional sound absorptive panels attached to the walls and ceiling of the car wash tunnel around the dryer blowers would produce a sound level in the protestant's rear yard of 52 dB Lmax. If unmitigated, the noise level in the rear yard would be 56 dB Lmax.

The peak noise levels generated by the car wash at the protestant's rear yard would be less than the averaged ambient noise levels generated by the traffic on Camden Avenue with or without mitigation.

The City has the discretion to review projects based on performance standards defined in the Zoning Ordinance which state that the maximum noise level generated from commercial uses adjacent to property used or zoned for residential purposes at the adjacent property line is 55 decibels. There are no residential or residentially zoned properties adjacent to the proposed development. If the performance standard was applied to the protestant's non-adjacent residential property the maximum mitigated sound level (52 dB) would conform to the 55 dB maximum threshold.

3. **Comments:** Added traffic and soapy water dripping off cars is a safety concern and may cause more accidents.

Staff Response: The Department of Public Works has reviewed the proposal and is satisfied that the project will not impact the adjacent intersection. The proposed car wash project includes water collection and recycling and the amount of water dripping from the cars is insignificant. Soapy water dripping off cars has not been an issue with other similar scale car wash facilities.

CONCLUSION

The California Environmental Quality Act (CEQA) specifies that the lead agency shall adopt a Negative Declaration if it determines, based upon substantial evidence, that a proposed project

would not have a significant effect on the environment. Substantial evidence includes (1) fact, (2) a reasonable assumption predicated upon fact, or (3) expert opinion supported by fact. Substantial evidence is not an argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

The Director of Planning, Building and Code Enforcement issued and adopted a Mitigated Negative Declaration based upon the initial study and other evidence in the record. The City is required to respond to written comments filed with the Director of Planning. While it is known that some public controversy exists regarding the project itself, no substantial evidence has been submitted to indicate that the controversy is relevant to the potential environmental impacts of the proposal. Preparation of an EIR for this project would not disclose any more substantial information regarding the environmental impacts of the project than is currently known.

ALTERNATIVE ACTION

The alternatives available to the Planning Commission are to (1) uphold the Mitigated Negative Declaration for the proposed project, or (2) require the preparation of an EIR.

RECOMMENDATION

The Director of Planning, Building & Code Enforcement recommends that the Planning Commission uphold the Mitigated Negative Declaration prepared for the proposed project.

Stephen M. Haasse, AICP
Director, Planning, Building and Code Enforcement

Attachments

C: Andrew Broer, 2230 Casa Mia Dr., San José, CA 95124

RE:II/207-02